

Filed 2/18/10

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

JOHN DIQUISTO et al.,

Plaintiffs and Appellants,

v.

COUNTY OF SANTA CLARA et al.,

Defendants and Respondents.

H032345

(Santa Clara County

Super. Ct. No. CV020671)

**ORDER MODIFYING OPINION
AND DENYING PETITION FOR
REHEARING**

NO CHANGE IN THE JUDGMENT

On the court's own motion, the opinion in this matter, which was filed on January 22, 2010, is modified in two respects to correct factual and spelling errors.

The third sentence on page 9 is modified to read as follows: "Ultimately, we denied the County's writ petition in June 2005."

The third full paragraph on page 9 is modified to add this sentence to the end of the paragraph: "The County then petitioned this court for a writ and for a stay, which we denied in May 2007."

The second full paragraph on page 43 and the third full paragraph on page 6 of the concurring and dissenting opinion are modified to correctly spell "*de minimis*."

The petition for rehearing is denied. (Justice Mihara would grant the petition.)

There is no change in the judgment.

Date:

McAdams, Acting P.J.

Duffy, J.